

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

TODD R.G. HILL,
Plaintiff,
v.
THE BOARD OF DIRECTORS,
OFFICERS, AND AGENTS AND
INDIVIDUALS OF PEOPLES
COLLEGE OF LAW, et al.,
Defendants.

No. 2:23-cv-01298-JLS-BFM
**REPORT AND
RECOMMENDATION OF
UNITED STATES
MAGISTRATE JUDGE**

This Report and Recommendation is submitted to the Honorable Josephine L. Staton, United States District Judge, pursuant to 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California.

SUMMARY OF RECOMMENDATION

This is a civil rights case filed by pro se Plaintiff Todd R.G. Hill. Hill, a former student of People's College of Law, alleged that that institution's failings deprived him of the right to the law school education that he had contracted for,

1 and that he was injured by the State Bar of California's failure to properly
2 regulate PCL. Earlier this year, the District Judge, on this Court's
3 recommendation, dismissed the Third Amended Complaint for failure to state a
4 claim, dismissed most of Plaintiff's claims without leave to amend, and
5 dismissed the State Bar from the case entirely. Hill has since filed the Fourth
6 Amended Complaint, which alleges four causes of action against individuals
7 associated with PCL. Those Defendants moved to dismiss and ask that
8 dismissal be without further leave to amend.

9 The Court agrees with Defendants that the Fourth Amended Complaint
10 should be dismissed because it fails to plausibly allege a civil RICO claim, which
11 is Plaintiff's sole remaining federal claim. Plaintiff alleges numerous theories
12 for how the Defendants associated with PCL violated RICO, but he fails to allege
13 any conduct that fits the definition of racketeering activity and proximately
14 caused his injuries. Without those elements, he cannot state a RICO claim. And
15 because there is no viable federal claim, the Court recommends declining to
16 exercise supplemental jurisdiction over Plaintiff's state law claims and instead
17 dismissing the Fourth Amended Complaint in its entirety.

18 While these Motions were pending, Plaintiff proposed another amended
19 complaint, his seventh attempt to state a claim. That amendment, too, fails to
20 fix the root problems in his case. The Court therefore recommends that leave to
21 file the proposed amendment be denied.

22 Finally, the Court recommends dismissing the Fourth Amended
23 Complaint without leave to amend. Plaintiff has filed five complaints and has,
24 along the way, proposed two additional complaints, none of which have
25 plausibly alleged a federal claim. The Court is unconvinced that Plaintiff will be
26 able to plead additional factual allegations that would give rise to a federal
27 cause of action and thus recommends that no further leave to amend be granted.
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RELEVANT PROCEDURAL HISTORY

Plaintiff filed his initial Complaint in February 2023. (ECF 1.) The District Judge *sua sponte* dismissed the original Complaint with leave to amend, finding that it violated Rule 8 of the Federal Rules of Civil Procedure. (ECF 37.) Plaintiff's First Amended Complaint likewise was dismissed *sua sponte* for violating Rule 8. (ECF 45.) Following a Report and Recommendation by this Court, the Second Amended Complaint was dismissed with leave to amend, in part without prejudice for violating Rule 8 and in part with prejudice based on substantive deficiencies that could not be cured by amendment. (*See* ECF 145 at 2-3.)¹

11 Plaintiff filed a Third Amended Complaint in August 2024. (ECF 148.)
12 The District Judge, on this Court’s recommendation, dismissed with prejudice
13 most of Plaintiff’s federal claims as well as all Defendants associated with the
14 State Bar of California. (ECF 213 at 29-30; ECF 248 at 2-3.) Plaintiff filed the
15 operative Fourth Amended Complaint on April 1, 2025. (ECF 257 (“FAC”).)²

16 All Defendants remaining in the case moved to dismiss. (ECF 263, 270.)
17 Defendant Ira Spiro moved to dismiss because the Fourth Amended Complaint
18 fails to state a claim and because Plaintiff did not suffer a cognizable injury for
19 RICO purposes and thus lacks standing. (ECF 263 at 5.) A collective of
20 Defendants associated with People's College of Law³ moved to dismiss, arguing
21 that the Fourth Amended Complaint violates Rule 8 and for failure to state a

¹ For ease of reference, the Court refers to ECF-generated page numbers.

² Plaintiff initially filed his Fourth Amended Complaint on March 31, 2025, (ECF 255) but subsequently filed a corrected Amended Complaint. References to the Fourth Amended Complaint are to the corrected version (ECF 257).

³ While Defendant Spiro is associated with People's College of Law, he represents himself. As such, references to the PCL Defendants do not include Defendant Spiro.

1 claim. (ECF 270 at 15, 19.) The moving defendants all argue that the Fourth
2 Amended Complaint should be dismissed with prejudice and without leave to
3 amend. (ECF 263 at 14; ECF 270 at 26-27.) Plaintiff opposed the Motions (ECF
4 267, 272),⁴ and Defendants filed Replies (ECF 273, 295.)

5 Also pending before the Court are eight Requests for judicial notice (ECF
6 263, 273, 276, 278, 290, 296, 301, 329) and Plaintiff's opposed Motion for leave
7 to file a Fifth Amended Complaint (ECF 310, 319, 321, 330).

8 All the pending Motions and Requests are fully briefed and ready for
9 decision.

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11 FACTUAL BACKGROUND

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A. Summary of Plaintiff's Allegations

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Without attempting to exhaustively state the facts set out in the Fourth
14 Amended Complaint and accompanying exhibits, the gist of Plaintiff's
15 allegations, taken as true for purposes of the pending Motions, follows:

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In Fall 2019, Plaintiff enrolled at People's College of Law, an unaccredited
17 law school in Los Angeles. (FAC ¶ 43.) Plaintiff maintained good academic
18 standing at PCL, was elected to serve on PCL's Community Board, and was one
19 of only two PCL students from his class who passed the First-Year Law
20 Students' Examination. (FAC ¶¶ 49-50, 74.)

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Plaintiff encountered numerous problems at PCL. First, Plaintiff received
22 inaccurate transcripts. He alleges that his efforts to obtain accurate transcripts

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24 ⁴ Plaintiff argues that Defendants' Motions are procedurally defective
25 because Defendants failed to comply with Local Rule 7-3's meet-and-confer
26 requirement. He asks the Court to strike their Motions on that basis. (ECF 267
27 at 4-5, ECF 272 at 5-6.) The Court previously concluded that Defendants
28 substantially complied with Local Rule 7-3's requirements and that further
meet-and-confer efforts were not likely to narrow the questions presented to this
Court. (See ECF 269.) It sees no reason to revisit that conclusion here.

1 were obstructed by Defendants Gonzalez, Pena, and Spiro. (FAC ¶¶ 37, 75.) He
2 further alleges that Defendants intentionally manipulated students' transcripts
3 to maintain the school's accreditation and to boost enrollment by preventing
4 students from transferring to another school. (FAC ¶¶ 40, 86, 107, 110, 112, 138-
5 39.) He also alleges that there is a racial component to the problem, in that PCL
6 fixed the transcript of a non-minority student and did not do the same for him.
7 (FAC ¶ 98; *see also* FAC ¶ 1 (Plaintiff identifying himself as African American).)

8 Plaintiff's access to classes was blocked in March 2022 following a tuition
9 dispute. (FAC ¶ 62; *see also* FAC Ex. 8 at 161-172 (email chain discussing tuition
10 dispute and Plaintiff's access to classes).) Later that same year, in July 2022,
11 Defendant Spiro informed Plaintiff that PCL would not be able to provide him
12 the fourth-year courses necessary for him to graduate. (FAC ¶¶ 37, 63-64.)
13 Plaintiff applied for a "special circumstances" exception from the State Bar. His
14 application was denied, he alleges, because PCL submitted it late and because
15 Defendant Spiro intentionally withheld Plaintiff's medical disability records
16 and other information related to PCL's alleged misconduct. (FAC ¶¶ 66-67.)

17 Plaintiff alleges that these administrative failures are part of PCL's larger
18 mode of operation. He alleges that since at least 2017, and unbeknownst to him
19 during his time at PCL, PCL failed to maintain accurate records and were not
20 in compliance with State Bar standards in other respects. (FAC ¶ 42.)

21 The Fourth Amended Complaint also alleges that PCL financially
22 defrauded Plaintiff, as well as other students and donors. For example, on
23 January 9, 2020, Plaintiff entered into a work agreement with Defendant Spiro:
24 Plaintiff would work at PCL for a limited time and a maximum pay of \$600, and
25 his earnings would be credited against Plaintiff's outstanding tuition amount.
26 (FAC ¶¶ 76, 84.) Plaintiff alleges, however, that the agreement was never
27 honored, resulting in him being overcharged for tuition by \$2,400. (FAC ¶ 77.)
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1 He also alleges that Defendant Bouffard improperly demanded tuition
2 payments despite payment agreements between Plaintiff and PCL, and in
3 violation of State Bar policies prohibiting fee collection from non-compliant
4 institutions. (FAC ¶ 39; *see also* FAC Ex. 5 at 127-133 (email chain between
5 Plaintiff and Defendants Spiro and Pena discussing tuition dispute); Ex. 8 at
6 161-172 (same).)

7 In another example, Plaintiff alleges that Defendants Spiro and Gonzalez
8 organized a fundraiser for PCL, promising that all proceeds would be used for
9 student needs. (FAC ¶ 52.) Those funds, Plaintiff alleges, were instead diverted
10 for other purposes. (FAC ¶ 52; *see also* FAC Ex. 8 at 156-160 (email chain
11 discussing fundraiser logistics).)

12 Finally, the Fourth Amended Complaint alleges that from at least May
13 2019 to May 31, 2024, Defendants Sarinana, Bouffard, Pena, Spiro, Gonzalez,
14 Torres, Aramayo, Zuniga, Viramontes, and/or Sanchez continuously engaged in
15 the following acts by use of the mail or a wire: (1) dissemination of false
16 information about PCL's bar passage rates, compliance status, and instructional
17 offerings; (2) extortion through threats to withhold academic credentials unless
18 additional payments were made; (3) awarding improper academic credits to
19 discourage transfer to other institutions; (4) failure to recuse from
20 administrative decisions involving a conflict of interest; (5) false assurances and
21 withholding accurate academic records; (6) discrimination against students
22 based on protected characteristics; and (7) distribution of false academic
23 transcripts. (FAC ¶¶ 102, 125-26, 137.)

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1 ANALYSIS

2 A. Standards for Dismissal Under Rule 12(b)(6) and Rule 8 of the
3 Federal Rules of Civil Procedure

4 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) “tests
5 the legal sufficiency of a claim.” *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir.
6 2001). Dismissal under Rule 12(b)(6) may be based on “either a ‘lack of a
7 cognizable legal theory’ or ‘the absence of sufficient facts alleged under a
8 cognizable legal theory.’” *Johnson v. Riverside Healthcare Sys., LP*, 534 F.3d
9 1116, 1121 (9th Cir. 2008) (citation omitted). To survive a motion to dismiss
10 under Rule 12(b)(6), “a complaint must contain sufficient factual matter,
11 accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft*
12 *v. Iqbal*, 556 U.S. 662, 678 (2009) (citation and internal quotations omitted). A
13 claim is facially plausible “when the plaintiff pleads factual content that allows
14 the court to draw the reasonable inference that the defendant is liable for the
15 misconduct alleged.” *Id.* (observing that Rule 8 does not require “detailed factual
16 allegations” but requires more than “labels and conclusions”).

17 When assessing the legal sufficiency of a plaintiff’s claims, a court must
18 accept as true all non-conclusory factual allegations contained in the complaint
19 and must construe the complaint in the light most favorable to the plaintiff. *See*
20 *Zucco Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 989 (9th Cir. 2009). A
21 court must construe a pro se litigant’s pleading liberally and hold a pro se
22 plaintiff’s pleading to a less stringent standard than that applied to pleadings
23 drafted by lawyers. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citation omitted);
24 *see generally Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995) (“Although we
25 construe pleadings liberally in their favor, pro se litigants are bound by the rules
26 of procedure.”).

1 Generally, a court may not consider material outside the complaint in
2 deciding a Rule 12(b)(6) motion. *Intri-Plex Techs., Inc. v. Crest Grp., Inc.*, 499
3 F.3d 1048, 1052 (9th Cir. 2007) (citation omitted). A court may consider only
4 allegations contained in the pleadings, exhibits attached to the complaint, and
5 matters properly subject to judicial notice. *Akhtar v. Mesa*, 698 F.3d 1202, 1212
6 (9th Cir. 2012) (citation omitted); *Schneider v. Cal. Dep’t of Corrs.*, 151 F.3d
7 1194, 1197 n.1 (9th Cir. 1988) (“In determining the propriety of a Rule 12(b)(6)
8 dismissal, a court may *not* look beyond the complaint to a plaintiff’s moving
9 papers, such as a memorandum in opposition to a defendant’s motion to
10 dismiss.”) (citations omitted).

11 The PCL Defendants move for dismissal under Rule 12(b)(6) and also
12 based on Plaintiff’s failure to comply with Rule 8 of the Federal Rules of Civil
13 Procedure. Rule 8 requires “a short and plain statement of the claim showing
14 that the pleader is entitled to relief” where each allegation is “simple, concise,
15 and direct.” *See Fed. R. Civ. P. 8(a), (d)(1)*. Rule 8 provides a ground for dismissal
16 independent of Rule 12(b)(6), and dismissal on Rule 8 grounds does not require
17 a finding that a complaint is wholly without merit. *See McHenry v. Renne*, 84
18 F.3d 1172, 1179 (9th Cir. 1996). Such dismissal is typically reserved for those
19 “instances in which the complaint is so ‘verbose, confused and redundant that
20 its true substance, if any, is well disguised.’” *Hearns v. San Bernardino Police
Dep’t*, 530 F.3d 1124, 1131 (9th Cir. 2008) (quoting *Gillibeau v. City of
Richmond*, 417 F.2d 426, 431 (9th Cir. 1969)); *see also McHenry*, 84 F.3d at 1178-
23 79 (court may dismiss a pro se litigant’s complaint for noncompliance with Rule
24 8).

25 **B. Requests for Judicial Notice**

26 Before the Court are the parties’ requests for judicial notice. In his Motion
27 to dismiss, Defendant Spiro asks the Court to take judicial notice of: (1) emails
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1 he sent to Plaintiff regarding his fourth year of study at PCL; (2) an email chain
2 between Defendant Spiro and Nancy Popp, another PCL student; (3) an excerpt
3 from a 2020 State Bar of California Periodic Inspection Report of PCL; (4) a 2022
4 PCL announcement of the position of Dean of the school; (5) PCL's 2020 Tax
5 Exemption form; (6) an excerpt from PCL's profit and loss statement; (7) part of
6 PCL's insurance policy from 2023; and (8) email exchanges between him and
7 Plaintiff. (ECF 263 at 11-13.) Defendant Spiro also requests judicial notice of:
8 (1) an excerpt from PCL's student handbook (ECF 273, 274); (2) a federal statute
9 providing immunity for volunteers of nonprofits (ECF 278); (3) documents
10 purportedly showing he was a volunteer at PCL; and (4) State Bar Rule 4.241
11 (ECF 296).

12 Plaintiff requests judicial notice of: (1) minutes from a December 2020
13 meeting at PCL; (2) an email from Defendant Spiro to the PCL community; (3)
14 an email from Plaintiff to PCL board members (ECF 276); (4) an email from the
15 State Bar of California regarding the February 2025 bar exam; (5) a reference
16 within the PCL student handbook (submitted in one of Spiro's Requests for
17 judicial notice) (ECF 290); (6) legal authority and arguments made in his
18 opponent's brief (ECF 329); and (7) the 2022 Guidelines for Unaccredited Law
19 School Rules (ECF 301). Plaintiff opposes Spiro's requests (ECF 267, 280, 301),
20 while Plaintiff's requests are unopposed.

21 The Court may judicially notice a fact that is not subject to reasonable
22 dispute because it: (1) is "generally known within the trial court's territorial
23 jurisdiction" or (2) can be "accurately and readily determined from sources
24 whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). A court's
25 decision to grant judicial notice is discretionary, and the Court need not take
26 judicial notice of facts not relied on in deciding matters before it. *Chamber of
27 Com. of the U.S. v. Cal. Air Resources Board*, 763 F. Supp. 3d 1005, 1015 n.6
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1 (C.D. Cal. 2025). Here, the Court reaches its conclusions without relying on any
2 document that would be the proper subject of judicial notice and therefore
3 recommends **denying** the requests for judicial notice.

4 Many of Spiro's requests for judicial notice appear to relate to his status
5 as an unpaid volunteer (*e.g.*, ECF 263 Ex. 5 at 33-34; ECF 278 at 6-9), which he
6 asserts is relevant to his state law claims (ECF 263 at 12)—claims that, as
7 discussed below, the Court declines to reach. Others relate Plaintiff's argument
8 concerning the adequacy of the pre-motion meet-and-confer process (ECF 263
9 Ex. 8 at 40), another question that, as noted above, the Court does not reach. To
10 the extent Spiro asks for judicial notice of legal authority (*see* ECF 278 at 3; ECF
11 296), the Court can consider legal authority without taking formal judicial
12 notice of it. And to the extent Spiro offers exhibits intended to explain actions
13 he took or the state of mind with which those actions were taken (*e.g.*, ECF 278
14 at 3), the Court could not take judicial notice of the truth of the content of those
15 documents at this stage of the case.

16 Plaintiff also supplies exhibits intended to reflect Spiro's status at PCL
17 (*see* ECF 276 at 7-8); like Spiro's exhibits on the same topic, they are irrelevant
18 to the issues reached in this Report and Recommendation. Other exhibits go to
19 Spiro's knowledge or intent (*see* ECF 276 at 8-9); the Court would not take
20 judicial notice of the truth of the representations made in those exhibits, and
21 the existence of those documents is not relevant to any issue analyzed here. No
22 judicial notice is required for legal authority or arguments raised in Defendants'
23 filings, and the State Bar's Guidelines are not necessary to any issue decided
24 here. Nor is it necessary to determine Plaintiff's eligibility to sit for the February
25 2025 California Bar Exam.

26 The requests for judicial notice (ECF 263, 273, 276, 278, 290, 296, 301,
27 329) should therefore be **denied**.

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1 **C. The Fourth Amended Complaint Fails to State a RICO Claim**

2 The PCL Defendants argue the Fourth Amended Complaint should be
3 dismissed for violating Rule 8, and both moving Defendants contend that it
4 should be dismissed for failure to state a claim. (*See generally* ECF 263, 270.)

5 Dismissal on Rule 8 grounds is not warranted. While the Fourth Amended
6 Complaint is long and at points repetitive, those defects do not render Plaintiff's
7 claims unintelligible. The conduct being complained of is discernable, and
8 Plaintiff generally attributes that conduct to specific Defendants. The Court
9 therefore recommends denying the PCL's Motion to the extent that it seeks
10 dismissal on Rule 8 grounds.

11 The Fourth Amended Complaint, however, should be dismissed for failure
12 to state a federal cause of action. Plaintiff's sole federal claim is a civil RICO
13 claim. A civil cause of action under RICO must allege: "(1) conduct (2) of an
14 enterprise (3) through a pattern (4) of racketeering activity (known as 'predicate
15 acts') (5) causing injury to plaintiff's 'business or property.'" *Living Designs, Inc.*
16 *v. E.I. Dupont de Nemours and Co.*, 431 F.3d 353, 361 (9th Cir. 2005) (internal
17 citation omitted). Civil RICO claims premised on fraud must comply with
18 Federal Rule of Civil Procedure 9(b)'s requirement that fraud claims be stated
19 with particularity. *Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065-66 (9th
20 Cir. 2004); *see also* Fed. R. Civ. P. 9(b). Plaintiff must "state the time, place, and
21 specific content of the false representations as well as the identities of the
22 parties to the misrepresentation" to avoid dismissal under that standard. *Alan*
23 *Neuman Productions, Inc. v. Albright*, 862 F.2d 1388, 1392-93 (9th Cir. 1988).
24 While intent may be alleged "generally" under Rule 9(b), that "merely excuses a
25 party from pleading discriminatory intent under an elevated pleading standard.
26 It does not give him license to evade the less rigid—though still operative—
27 strictures of Rule 8." *Iqbal*, 556 U.S. at 686-87.

1 Plaintiff fails to state a RICO claim under these standards because the
2 conduct alleged does not fit any definition of a racketeering act. Congress has
3 enumerated the predicate acts that may form the basis for a RICO claim in 18
4 U.S.C. § 1961(1). That definition includes mail and wire fraud, which Plaintiff
5 principally relies on.⁵ Plaintiff alleges three general categories of conduct that
6 he argues constitutes mail or wire fraud: (1) transmission of inaccurate
7 academic transcripts; (2) misrepresentations about the institution of PCL made
8 by PCL's administrators; and (3) coercive billing practices. (FAC ¶¶ 90, 101-02.)
9 The Court concludes that none of Defendants' conduct amounts to mail or wire
10 fraud.

11 The elements of mail fraud and wire fraud are essentially the same:
12 Plaintiff must show (1) a scheme to defraud; (2) the use of either mail or wire to
13 further the scheme; and (3) the specific intent to defraud. *United States v.*
14 *Brugnara*, 856 F.3d 1198, 1207 (9th Cir. 2017). While Plaintiff presents several
15 wire-fraud or mail-fraud theories, none of the allegations withstand scrutiny.

16 **1. Transcript discrepancies**

17 Plaintiff alleges that his transcripts never accurately reflected the class
18 hours that he had completed at PCL. (See FAC Ex. 6 at 138-40 (summarizing
19 the issue that resulted in PCL transcripts allegedly reflecting inadequate credit
20 hours for coursework completed).) The fact that Plaintiff's transcripts contained
21 inaccuracies does not alone amount to an allegation of mail or wire fraud.
22 Instead, Plaintiff must allege facts giving rise to the inference that those
23 inaccuracies were part of a scheme to defraud, undertaken with the specific
24 intent to defraud. If Defendants acted "on a belief or an opinion honestly held"

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26 ⁵ In passing, Plaintiff alleges that PCL violated § 1983. (FAC ¶ 142.) Setting
27 aside any other problem with attempting to state a constitutional violation as
28 the basis for a RICO claim, PCL employees are not state actors and thus cannot
be liable under § 1983.

1 about the correctness of the transcripts, such action “is not punishable under
2 [the wire fraud] statute merely because the belief or opinion turns out to be
3 inaccurate, incorrect, or wrong.” *United States v. Amlani*, 111 F.3d 705, 717 (9th
4 Cir. 1997). Nor do “errors in management” rise to the level of an intent to
5 defraud. *Id.*

6 Here, Plaintiff does not plausibly allege that any Defendant *intentionally*
7 provided him with false transcripts, let alone that it was part of a scheme to
8 defraud him or anyone else. Worse than that, the exhibits Plaintiff attaches to
9 the Fourth Amended Complaint—the ones his complaint points to as making
10 out his wire and mail fraud claim (*see* FAC ¶¶ 107, 112)—suggest the opposite.
11 One is an April 2022 email exchange between PCL administrators and the State
12 Bar of California. (FAC Ex. 9 at 174-76.) In it, PCL administrators attempted to
13 explain how they had decided to award credits, and the State Bar explained why
14 it believed PCL’s accounting was faulty. That exchange strongly suggests that
15 PCL did not understand how to properly award credits but does not give rise to
16 an inference that anyone intentionally falsified records with the intent to
17 defraud.

18 A second email exchange from August 2021, between Defendant Spiro and
19 Nancy Popp, another PCL student, is similar. (FAC ¶ 107; FAC Ex. 1 at 74-83)
20 That email, too, describes Defendant Spiro’s communications with the State
21 Bar. It reflects Spiro soliciting feedback about how to fix the existing transcript
22 of a student who was apparently trying to transfer out. It also reflects that Spiro
23 received instructions from the State Bar not to do anything to change credit
24 hours on transcripts without their approval. (FAC Ex. 1 at 74.)

25 Plaintiff has pointed to these communications as satisfying the
26 requirement that he identify the particular contents of false representations
27 evidencing a scheme to defraud or intent to defraud. But neither fits the bill:
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1 they highlight the extent of PCL's record-keeping incompetence but hardly give
2 rise to an inference of malevolence.

3 Plaintiff points to a handful of other documents, but they do not help his
4 case. A November 9, 2022, letter from Defendant Spiro to the State Bar does not
5 reflect an intent to provide inaccurate transcripts: that communication
6 concerned issues related to Plaintiff's fourth year of study.⁶ (See FAC ¶ 119; ECF
7 199 at 75-81.) And a June 17, 2022, communication from a program analyst for
8 the State Bar of California acknowledges Plaintiff's transcripts were "disputed
9 and incomplete," but acknowledgement of discrepancies does not give rise to an
10 inference that those discrepancies were intentional or that they were made as
11 part of a scheme to defraud. (See FAC ¶ 118.)

12 Beyond that, Plaintiff's only other allegation is that his attempts to get an
13 accurate transcript were "obstructed" by Defendants Gonzalez, Pena, Spiro, and
14 Leonard. (FAC ¶ 37.) That allegation is conclusory and thus insufficient to
15 support Plaintiff's claims.

16 In short, Plaintiff pleads facts alleging that there were discrepancies in
17 his transcript, but nothing that "allows the court to draw the reasonable
18 inference that [Defendants] are liable for the misconduct alleged." *Bell Atl. Corp.*
19 *v. Twombly*, 550 U.S. 544, 570 (2009). As Plaintiff's allegations are merely
20 consistent with Defendants' liability, they "stop short of the line between
21 possibility and plausibility of entitlement to relief." *Id.* at 557. (cleaned up).

22 _____
23 ⁶ In opposition to Defendant Spiro's Motion to dismiss, Plaintiff points to an
24 email exchange that he argues confirms Spiro's role in transcript
25 "manipulation." (ECF 267 at 7 (citing ECF 263 at 17-20).) That email does reflect
26 Spiro's offer—made in consultation with the State Bar—to modify the
27 designation on Plaintiff's transcript. Even assuming Spiro had the power and
28 willingness to modify transcripts, nothing in the emails suggest a malicious
intent or a scheme to defraud. The email exchange shows Spiro actively
communicating with the State Bar to ensure Plaintiff was able to continue his
legal education without significant delay—something Plaintiff himself desired.

1 Even if the Court could overlook that problem, Plaintiff's basic
2 explanation of this scheme is illogical. He says that Defendants manipulated
3 transcripts "to conceal PCL's institutional failures." (FAC ¶ 112.) That
4 allegation is undermined by the two exhibits, incorporated into the pleading,
5 indicating that Defendants began communicating with the State Bar about
6 these transcript discrepancies very quickly after the problem was brought to the
7 school's attention. (*See* FAC Ex. 1 at 74-83; Ex. 9 at 172-76.)

8 Moreover, it is unclear how intentionally providing less credit to students
9 would possibly facilitate a cover-up of institutional failures. That allegation
10 simply makes no logical sense. Plaintiff says that the scheme was undertaken
11 to "mislead students . . . about the legitimacy of their earned credits" (FAC ¶
12 113) but, again, it is difficult to understand how such a scheme would have
13 worked.

14 The most plausible allegation Plaintiff makes is that under-crediting
15 course hours would have made it difficult for students to transfer out (FAC ¶
16 86), because it would have appeared that they had less credit hours than they
17 had in fact completed. But a lost opportunity to transfer schools is hardly a
18 concrete injury required to pursue a RICO claim. *Chaset v. Fleer/Skybox Int'l,*
19 *LP*, 300 F.3d 1083, 1087 (9th Cir. 2002) (to meet RICO's requirement of an
20 injury to his business or property, Plaintiff must allege a "concrete financial
21 loss" not "mere injury to a valuable intangible property interest"). Even if it
22 were, Plaintiff does not make any non-conclusory allegation about this lost
23 opportunity; he does not allege that he attempted to transfer and was unable to
24 do so because of his transcript, or that he had specific reason to think his
25 transcript would prevent him from doing so. Finally, Plaintiff does not articulate
26 any theory of a concrete financial loss proximately caused by his inability to
27 transfer. *See Canyon Cnty v. Syngenta Seeds, Inc.*, 519 F.3d 969, 972 (9th Cir.
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1 2008) (to state a RICO claim, the injury must be proximately caused by a RICO
2 predicate act).

3 At bottom, Plaintiff does not plausibly allege Defendants provided
4 inaccurate transcripts with the intent to defraud anyone or as part of a plausible
5 scheme to defraud that caused cognizable injury. As such, any dissemination of
6 inaccurate transcripts does not state a RICO claim based on mail or wire fraud.

7 **2. Misrepresentations about PCL's status**

8 Plaintiff also alleges that between May 2019 and March 2024, Defendants
9 Spiro, Pena, Bouffard, Aramayo, Zuniga, Sarinana, Viramontes and Sanchez
10 “systematically” disseminated false statements about PCL’s bar passage rates,
11 accreditation status, and financial solvency. (FAC ¶ 102, 126.) Similar
12 allegations are sprinkled throughout the Fourth Amendment Complaint but are
13 devoid of any details: it is unclear when the communications occurred, what
14 misrepresentations were made in individual communications, who made the
15 communications, or what the intent was behind any of those communications.
16 Such generalities do not comply with Rule 9, which requires “the time, place,
17 and specific content of the false representations as well as the identities of the
18 parties to the misrepresentation.” *Schreiber Distribg. Co. v. Serv-Well Furniture
Co., Inc.*, 806 F.2d 1393, 1401 (9th Cir. 1986). Without more, it is also impossible
19 for the Court to evaluate whether the miscommunications were the product of
20 an intent to deceive, rather than accidental or the result of incompetence, and
21 whether any of those statements conveyed to donors and students injured
22 Plaintiff. As such, Plaintiff’s allegation is insufficient to establish mail or wire
23 fraud.

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1 **3. Issues surrounding Plaintiff's tuition and PCL's billing**
2 **practices**

3 Plaintiff points to alleged misrepresentations about his tuition payment
4 arrangements, alleging that Spiro "knowingly engaged in misrepresentations
5 regarding Plaintiff's tuition payments and credit arrangements." (FAC ¶ 84;
6 FAC Ex. 5.) Plaintiff incorporated into his pleading an email from Spiro
7 outlining the proposed arrangement: Plaintiff would work for PCL for a limited
8 time and a maximum payout of \$600, which would be credited toward his
9 outstanding tuition. (FAC Ex. 5 at 127.) He also points to an email from April 5,
10 2022—over two years later—in which Plaintiff claims he was never paid for his
11 work. (FAC Ex. 5 at 132.) Plaintiff makes no allegations concerning what
12 occurred in the two years between the work agreement and April 2022, why
13 payment was not credited to his account, and who was responsible. Without
14 more, this allegation does not meet Rule 9(b)'s standard: Plaintiff has not
15 provided the "who, what, when, where, and how" of this alleged fraud. *See Vess*
16 *v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1106 (9th Cir. 2003). Nor has he
17 alleged that this billing error was somehow part of a *pattern* of deceptive
18 practices.

19 Plaintiff alleges that Defendants engaged in coercive billing practices. The
20 closest he comes to a specific allegation—one that affected *him*⁷ and is not
21 related to the above discrepancy—is where he alleges that PCL continued its
22 attempts to collect tuition from him even as it failed to provide coursework that

24 25 26 27 28 ⁷ Plaintiff describes other concerning financial arrangements, including the
 fact that its professors were unpaid, that donors were misled about the uses of
 their funds, and that PCL marketed itself to underrepresented communities
 while hiding its institutional failures from those it was attempting to recruit
 (e.g., FAC ¶ 36), but none of those allegations were the proximate cause of
 Plaintiff's injury, financial or otherwise. The Court does not consider them
 further.

1 would permit him to finish his fourth year of schooling. (FAC ¶ 37.) Such
2 allegations do not make out a claim of fraud or extortion. There is no fraud claim
3 because Plaintiff does not allege that he was deceived about PCL's inability to
4 provide fourth-year classes; in fact, he was informed of the problem the summer
5 before his fourth year (and thus, presumably, before he made any tuition
6 payments for that year). (FAC ¶ 37.) Nor is there a viable extortion claim
7 because there is no allegation that anyone used any wrongful use of force or fear
8 to attempt to collect that debt. *See Cal. Penal Code 518* (defining extortion under
9 state law as the obtaining of property from another, with his consent, induced
10 by a wrongful use of force or fear); *Rothman v. Vedder Park Mgmt.*, 912 F.2d
11 315, 317 (9th Cir. 1990) (noting both the California and federal definitions of
12 extortion use similar formulations involving wrongful use of force, violence, or
13 fear).

14 For these reasons, Plaintiff fails to allege racketeering activity—let alone
15 a *pattern* of such activity. His attempt to state a RICO claim therefore fails.

16 **D. Plaintiff's Remaining State Law Claims Should Be Dismissed**

17 Having recommended dismissal of Plaintiff's only federal claim, the Court
18 recommends **dismissing** the state law claims without prejudice to Plaintiff
19 bringing them in state court. *See Wren v. Sletten Const. Co.*, 654 F.2d 529, 536
20 (9th Cir. 1981) (“When the state issues apparently predominate and all federal
21 claims are dismissed before trial, the proper exercise of discretion requires
22 dismissal of the state claim.”); *Ismail v. Cnty. Of Orange*, 917 F. Supp. 2d 1060,
23 1072 (C.D. Cal. 2012) (noting that state-law claims “should” be dismissed if all
24 the federal claims have been dismissed).⁸

25 _____
26 ⁸ The Fourth Amended Complaint alleges diversity jurisdiction exists, but
27 the Court disagrees. (FAC at ¶ 27.) As an initial matter, Plaintiff failed to plead
28 the citizenship of the parties, as is the obligation of the party invoking diversity
jurisdiction. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001).
(cont'd . . .)

E. Plaintiff's Motion to File a Fifth Amended Complaint Should be Denied

The Court has reviewed Plaintiff's Motion to file a Fifth Amended Complaint (ECF 310, 330), the proposed amended complaint (ECF 313), and a redline comparison of the two (ECF 317). Based on that review, the Court recommends the Motion be denied. Under Federal Rule of Civil Procedure 15(a)(1), a party may amend its pleading once as a matter of course within the period specified by the rule. Fed. R. Civ. P. 15(a)(1). After that, a party may amend its pleading "only with the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2). Leave to amend should be granted unless (1) doing so would prejudice the opposing party; (2) the amendment is sought in bad faith; (3) the amendment causes undue delay; or (4) the proposed amendment would be futile. *AmerisourceBergen Corp. v. Dialysisist W., Inc.*, 465 F.3d 946, 951 (9th Cir. 2006).

15 The proposed Fifth Amended Complaint does not add any substantive
16 factual allegations. Instead, the changes appear to be an attempt to clarify
17 Plaintiff's allegations in response to arguments raised in Defendants' Motions
18 to dismiss. For example, Plaintiff adds paragraphs 99A and 137A, which

Nor does it appear that this is an error that could be fixed by amendment. Diversity jurisdiction is “assessed at the time the lawsuit is commenced.” *Freeport-McMoRan, Inc. v. K N Energy, Inc.*, 498 U.S. 426, 429 (1991). Subsequent changes in citizenship of the parties do not change that assessment. See *Grupo Datalfux v. Atlas Global Group, L.P.*, 541 U.S. 567, 571 (2004) (“[The Court] measures all challenges to subject-matter jurisdiction premised upon diversity of citizenship against the state of facts that existed at the time of filing—whether the challenge be brought shortly after filing, after the trial, or even for the first time on appeal.”). Plaintiff was a resident of California when he initiated this action (see ECF 1 at 1 (Plaintiff’s original Complaint identifying a Los Angeles County address for Plaintiff)) and it is undisputed that many Defendants were and are California residents (see generally ECF 1 (Plaintiff’s initial complaint); see also FAC at 5-6 (“[D]efendants predominantly reside and conduct business within the State of California[.]”)). The Court therefore lacks diversity jurisdiction over Plaintiff’s claims.

1 purport to outline the “particularities” of Defendants’ fraud. But the facts
2 included in the paragraph are plead elsewhere in the Fourth and Fifth Amended
3 Complaints. Other additions include a clarification on the jurisdictional basis of
4 Plaintiff’s Complaint (ECF 317 ¶¶ 27A, 33A) and an allegation of satisfaction of
5 the Government Claims Act (ECF 317 ¶ 72A). None of these additions address
6 the deficiencies in Plaintiff’s RICO claim discussed above. As there is no
7 substantive change that would alter the recommendations above, granting
8 Plaintiff’s Motion would do nothing more than delay adjudication of Plaintiff’s
9 claims. The Court therefore recommends that Plaintiff’s Motion to amend the
10 FAC be **denied.**⁹

11 **F. The FAC Should be Dismissed Without Leave to Amend**

12 The Court recommends dismissing the Fourth Amended Complaint
13 without leave to amend. As noted above, leave to amend should be given freely
14 unless further amendment would be futile. *AmerisourceBergen Corp.*, 465 F.3d
15 at 951. “[A] proposed amendment is futile only if no set of facts can be proved
16 under the amendment to the pleadings that would constitute a valid and
17 sufficient claim or defense.” *Sweaney v. Ada County, Idaho*, 119 F.3d 1385, 1393
18 (9th Cir. 1997) (internal citation and quotation marks omitted).

19 Here, the Court has considered five versions of the Complaint and two
20 proposed amended Complaints, amounting to hundreds of pages of allegations
21 and dozens of exhibits. Despite this ample opportunity, Plaintiff has failed to
22 allege facts amounting to a viable federal cause of action. The Court concludes
23
24

25
26 ⁹ Plaintiff filed a motion for leave to file a surreply in response to Spiro’s
27 opposition to his request for leave to amend. (ECF 323.) Plaintiff’s explanation
28 for why a surreply was necessary did not persuade the Court that additional
briefing would be helpful to the Court’s decision, and the request is therefore
denied.

1 that further leave to amend would be futile, and thus recommends the Fourth
2 Amended Complaint be **dismissed without leave to amend**.

3
4 **RECOMMENDATION**

5 **IT IS THEREFORE RECOMMENDED** that the District Judge issue an
6 Order:

7 (1) accepting and adopting this Report and Recommendation;

8 (2) **denying** Defendant Spiro's Requests for judicial notice (ECF 263, 273,
278, 296);

9 (3) **denying** Plaintiff's Requests for judicial notice (ECF 276, 290, 301,
329);

10 (4) **denying** Plaintiff's Motion to amend the Fourth Amended Complaint
11 (ECF 310, 330);

12 (5) **granting in part** Defendants' Motions to dismiss (ECF 263, 270) to
13 the extent that they seek dismissal for failure to state a claim;

14 (6) **dismissing** the Fourth Amended Complaint in its entirety with
15 prejudice and without leave to amend; and

16 (7) **dismissing** this action with prejudice.

17
18 DATED: July 22, 2025



19
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21 HON. BRIANNA FULLER MIRCHEFF
22 UNITED STATES MAGISTRATE JUDGE
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NOTICE

Reports and Recommendations are not appealable to the United States Court of Appeals for the Ninth Circuit, but may be subject to the right of any party to file objections as provided in the Local Civil Rules for the United States District Court for the Central District of California and review by the United States District Judge whose initials appear in the docket number. No notice of appeal pursuant to the Federal Rules of Appellate Procedure should be filed until the District Court enters judgment.